

ORDINANCE NO. 2014-15

**AN ORDINANCE CREATING SECTION 2.07(F)
OF CHAPTER 2, VILLAGE GOVERNMENT OF THE VILLAGE OF
ALLOUEZ MUNICIPAL CODE RELATING TO BOARD OF REVIEW,
CONFIDENTIALITY OF INCOME AND EXPENSE**

**THE VILLAGE BOARD OF THE VILLAGE OF ALLOUEZ, BROWN COUNTY,
WISCONSIN, DOES ORDAIN THAT SECTION 2.07(F) OF CHAPTER 2, VILLAGE
GOVERNMENT, OF THE VILLAGE OF ALLOUEZ MUNICIPAL CODE BE
CREATED TO READ AS FOLLOWS:**

SECTION 1. Section 2.07 BOARD OF REVIEW.

F. Confidentiality of Income and Expense. Whenever the Assessor, in the performance of the Assessor's duties, requests or obtains income and expense information that is provided to the Assessor shall be held by the Assessor on a confidentiality basis, except, however, that the information may be revealed to and used by persons: in the discharging of duties imposed by law; in the discharge of duties imposed by office (including, but not limited to, use by the Assessor in performance of official duties of the Assessor's office and use by the Board of Review in performance of its official duties); or pursuant to order of a court. Income and expense information provided to the Assessor under Section 70.47(7)(af), unless a court determines that it is inaccurate, is, per Section 70.47(7)(af), not subject to the right of inspection and copying under Section 19.35(1), Wis. Stats.

SECTION 2. All ordinances or parts of ordinances, in conflict herewith are hereby repealed.

SECTION 3. This ordinance shall take effect upon its adoption and publication.

Dated this 1st day of July, 2014.

Steven Vanden Avond, Village President

ATTEST:

Debra M. Baenen, Village Clerk

DATE OF PUBLICATION:

appears before the board at any time up to the end of the 5th day of the session or up to the end of the final day of the session if the session is less than 5 days, files a written objection and provides evidence of extraordinary circumstances; the board of review may waive all notice requirements and hear the objection.

(aL) If the assessment roll is not completed at the time of the first meeting, the board shall adjourn for the time necessary to complete the roll, and shall post a written notice on the outer door of the place of meeting stating the time to which the meeting is adjourned.

(ar) With respect to the assessment rolls of taxing districts prepared by a county assessor, the board of review as constituted under s. 70.99 (10) shall schedule a meeting in each taxing jurisdiction on specific dates and shall comply with the provisions of this subsection and sub. (2) in each taxing district.

(b) The municipal governing body may by ordinance or resolution designate hours, other than those set forth in par. (a), during which the board shall hold its first meeting, but not fewer than 2 hours on the first meeting day between 8 a.m. and midnight. Such change in the time shall not become effective unless notice thereof is published in the official newspaper if in a city, or posted in not less than 3 public places if in any other municipality, at least 15 days before such first meeting.

(4) **ADJOURNMENT.** The board may adjourn from time to time until its business is completed. If an adjournment be had for more than one day, a written notice shall be posted on the outer door of the place of meeting, stating to what time said meeting is adjourned.

(5) **RECORDS.** The clerk shall keep a record in the minute book of all proceedings of the board.

(6) **BOARD'S DUTY.** The board shall carefully examine the roll or rolls and correct all apparent errors in description or computation, and shall add all omitted property as provided in sub. (10). The board shall not raise or lower the assessment of any property except after hearing as provided in subs. (8) and (10).

(6m) **REMOVAL OF A MEMBER.** (a) A municipality, except a 1st class city or a 2nd class city, shall remove, for the hearing on an objection, a member of the board of review if any of the following conditions applies:

1. A person who is objecting to a valuation, at the time that the person provides written or oral notice of an intent to file an objection and at least 48 hours before the first scheduled session of the board of review or at least 48 hours before the objection is heard if the objection is allowed under sub. (3) (a), requests the removal, except that no more than one member of the board of review may be removed under this subdivision.

2. A member of the board of review has a conflict of interest under an ordinance of the municipality in regard to the objection.

3. A member of the board of review has a bias in regard to the objection and, if a party requests the removal of a member for a bias, the party submits with the request an affidavit stating that the party believes that the member has a personal bias or prejudice against the party and stating the nature of that bias or prejudice.

(b) A member of a board of review who would violate s. 19.59 by hearing an objection shall recuse himself or herself from that hearing. The municipal clerk shall provide to the department of revenue an affidavit declaring whether the requirement under this paragraph is fulfilled.

(c) If a member or members are removed under par. (a) or are recused under par. (b), the board may replace the member or members or its remaining members may hear the objection, except that no fewer than 3 members may hear the objection.

(6r) **COMMENTS.** Any person may provide to the municipal clerk written comments about valuations, assessment practices and the performance of an assessor. The clerk shall provide all of those comments to the appropriate municipal officer.

(7) **OBJECTIONS TO VALUATIONS.** (a) The board of review may not hear an objection to the amount or valuation of property

unless, at least 48 hours before the board's first scheduled meeting, the objector provides to the board's clerk written or oral notice of an intent to file an objection, except that, upon a showing of good cause and the submission of a written objection, the board shall waive that requirement during the first 2 hours of the board's first scheduled meeting, and the board may waive that requirement up to the end of the 5th day of the session or up to the end of the final day of the session if the session is less than 5 days with proof of extraordinary circumstances for failure to meet the 48-hour notice requirement and failure to appear before the board of review during the first 2 hours of the first scheduled meeting. Objections to the amount or valuation of property shall first be made in writing and filed with the clerk of the board of review within the first 2 hours of the board's first scheduled meeting, except that, upon evidence of extraordinary circumstances, the board may waive that requirement up to the end of the 5th day of the session or up to the end of the final day of the session if the session is less than 5 days. The board may require such objections to be submitted on forms approved by the department of revenue, and the board shall require that any forms include stated valuations of the property in question. Persons who own land and improvements to that land may object to the aggregate valuation of that land and improvements to that land, but no person who owns land and improvements to that land may object only to the valuation of that land or only to the valuation of improvements to that land. No person shall be allowed in any action or proceedings to question the amount or valuation of property unless such written objection has been filed and such person in good faith presented evidence to such board in support of such objections and made full disclosure before said board, under oath of all of that person's property liable to assessment in such district and the value thereof. The requirement that it be in writing may be waived by express action of the board.

(aa) No person shall be allowed to appear before the board of review, to testify to the board by telephone or to contest the amount of any assessment of real or personal property if the person has refused a reasonable written request by certified mail of the assessor to view such property.

(ab) For the purpose of this section, the managing entity, as defined in s. 707.02 (15), or its designees, may be considered the taxpayer as an agent for the time-share owner, as defined in s. 707.02 (31), and may file one objection and make one appearance before the board of review concerning all objections relating to a particular real property improvement and the land associated with it. A time-share owner may file one objection and make one appearance before the board of review concerning the assessment of the building unit in which he or she owns a time share.

(ac) After the first meeting of the board of review and before the board's final adjournment, no person who is scheduled to appear before the board of review may contact, or provide information to, a member of the board about that person's objection except at a session of the board.

(ad) No person may appear before the board of review, testify to the board by telephone or contest the amount of any assessment unless, at least 48 hours before the first meeting of the board or at least 48 hours before the objection is heard if the objection is allowed under sub. (3) (a), that person provides to the clerk of the board of review notice as to whether the person will ask for removal under sub. (6m) (a) and if so which member will be removed and the person's reasonable estimate of the length of time that the hearing will take.

(ae) When appearing before the board, the person shall specify, in writing, the person's estimate of the value of the land and of the improvements that are the subject of the person's objection and specify the information that the person used to arrive at that estimate.

(af) No person may appear before the board of review, testify to the board by telephone or object to a valuation; if that valuation was made by the assessor or the objector using the income

method; unless the person supplies to the assessor all of the information about income and expenses, as specified in the manual under s. 73.03 (2a), that the assessor requests. The municipality or county shall provide by ordinance for the confidentiality of information about income and expenses that is provided to the assessor under this paragraph and shall provide exceptions for persons using the information in the discharge of duties imposed by law or of the duties of their office or by order of a court. The information that is provided under this paragraph, unless a court determines that it is inaccurate, is not subject to the right of inspection and copying under s. 19.35 (1).

(bb) Upon receipt of an objection with respect to the assessment rolls of taxation districts prepared by a county assessor the board of review as constituted under s. 70.99 (10) may direct such objection to be investigated by the county board of assessors if such board has been established under s. 70.99 (10m). If such objection has been investigated by the county board of assessors as provided by s. 70.99 (10m), the county board of review may adopt the determination of county board of assessors unless the objector requests or the board of review orders a hearing. At least 2 days' notice of the time fixed for such hearing shall be given to the objector or the objector's attorney and to the corporation counsel. If the county board of review adopts the determination of the county board of assessors and no further hearing is held, the clerk of the board of review shall record the adoption in the minutes of the board and shall correct the assessment roll as provided by s. 70.48.

(c) The board of review shall grant a taxpayer a 60-day extension for a hearing related to the taxpayer's objection submitted under this section, if the taxation district enacts an ordinance authorizing such extensions and if the taxpayer submits with the objection a request to the board for an extension and pays the taxation district a \$100 fee. A request for an extension under this paragraph shall not stop the accrual of interest, notwithstanding s. 70.511 (2) (b). The 60-day extension period under this paragraph may be further extended, if the taxpayer shows good cause. If a taxation district enacts an ordinance under this paragraph, each taxpayer who submits an objection under this section, regardless of whether the taxpayer requests an extension, and the assessor shall present to the board of review all evidence, as specified in the manual under s. 73.03 (2a), on which they rely to support their respective positions and any additional evidence that the taxpayer or the assessor believes is relevant to determining the correct assessment. If the taxpayer receives an extension under this paragraph, at least 10 days before the scheduled board of review hearing, the taxpayer and the assessor shall simultaneously exchange all reports, documents, and exhibits that the taxpayer and assessor will present at the hearing. At least 60 days prior to the first day on which the board of review hears objections, each taxation district that enacts an ordinance under this paragraph shall publish on its Internet site the last day on which a taxpayer may submit an objection under this section. At least 15 days prior to the first day on which the board of review hears objections, each taxation district that enacts an ordinance under this paragraph shall include with the notice under s. 70.365 information to inform the taxpayer of the last day on which a taxpayer may submit an objection under this section.

NOTE: The supreme court in *Metropolitan Associates v. City of Milwaukee*, 2011 WI 20, held the creation of par. (c) by 2007 Wis. Act 86 to be unconstitutional and severed from the remainder of the statute.

(8) HEARING. The board shall hear upon oath all persons who appear before it in relation to the assessment. Instead of appearing in person at the hearing, the board may allow the property owner, or the property owner's representative, at the request of either person, to appear before the board, under oath, by telephone or to submit written statements, under oath, to the board. The board shall hear upon oath, by telephone, all ill or disabled persons who present to the board a letter from a physician, osteopath, physician assistant, as defined in s. 448.01 (6), or advanced practice nurse prescriber certified under s. 441.16 (2) that confirms their illness or disability. At the request of the property owner or the property

owner's representative, the board may postpone and reschedule a hearing under this subsection, but may not postpone and reschedule a hearing more than once during the same session for the same property. The board at such hearing shall proceed as follows:

(a) The clerk shall swear all persons testifying before it or by telephone in relation to the assessment.

(b) The owner or the owner's representatives and the owner's witnesses shall first be heard.

(c) The board may examine under oath such persons as it believes have knowledge of the value of such property.

(d) It may and upon request of either the assessor or the objector shall compel the attendance of witnesses for hearing, except objectors who may testify by telephone, and the production of all books, inventories, appraisals, documents and other data which may throw light upon the value of property, and, with regard to an objection that is subject to sub. (7) (c) or (16) (c), may, on a showing of good cause, compel the attendance of witnesses for depositions.

NOTE: The supreme court in *Metropolitan Associates v. City of Milwaukee*, 2011 WI 20, held the amendment of par. (d) by 2007 Wis. Act 86 to be unconstitutional and severed from the remainder of the statute. Prior to the amendment by Act 86, par. (d) read:

(d) It may and upon request of the assessor shall compel the attendance of witnesses, except objectors who may testify by telephone, and the production of all books, inventories, appraisals, documents and other data which may throw light upon the value of property.

(e) All proceedings shall be taken in full by a stenographer or by a recording device, the expense thereof to be paid by the district. The board may order that the notes be transcribed, and in case of an appeal or other court proceedings they shall be transcribed. If the proceedings are taken by a recording device, the clerk shall keep a list of persons speaking in the order in which they speak.

(f) The clerk's notes, written objections and all other material submitted to the board of review, tape recordings of the proceedings and any other transcript of proceedings shall be retained for at least 7 years, shall be available for public inspection and copies of these items shall be supplied promptly at a reasonable time and place to anyone requesting them at the requester's expense.

(g) All determinations of objections shall be by roll call vote.

(h) The assessor shall provide to the board specific information about the validity of the valuation to which objection is made and shall provide to the board the information that the assessor used to determine that valuation.

(i) The board shall presume that the assessor's valuation is correct. That presumption may be rebutted by a sufficient showing by the objector that the valuation is incorrect.

(j) The board shall allow a sufficient amount of time for a hearing under this subsection to permit the taxpayer and assessor to present their evidence.

NOTE: The supreme court in *Metropolitan Associates v. City of Milwaukee*, 2011 WI 20, held the creation of par. (j) by 2007 Wis. Act 86 to be unconstitutional and severed from the remainder of the statute.

(8m) HEARING WAIVER. The board may, at the request of the taxpayer or assessor, or at its own discretion, waive the hearing of an objection under sub. (8) or, in a 1st class city, under sub. (16) and allow the taxpayer to have the taxpayer's assessment reviewed under sub. (13). For purposes of this subsection, the board shall submit the notice of decision under sub. (12) using the amount of the taxpayer's assessment as the finalized amount. For purposes of this subsection, if the board waives the hearing, the waiver disallows the taxpayer's claim on excessive assessment under s. 74.37 (3) and, notwithstanding the time period under s. 74.37 (3) (d), the taxpayer has 60 days from the notice of the hearing waiver in which to commence an action under s. 74.37 (3) (d).

(9) CORRECTION OF ASSESSMENTS. (a) From the evidence before it the board shall determine whether the assessor's assessment is correct. If the assessment is too high or too low, the board shall raise or lower the assessment accordingly and shall state on the record the correct assessment and that that assessment is reasonable in light of all of the relevant evidence that the board